

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:05CR404
)	
vs.)	ORDER
)	
ERIC V. GERLACH,)	
)	
Defendant.)	

On January 3, 2006, after granting the joint motion of counsel for defendant Eric V. Gerlach (Gerlach) and counsel for the government, the court ordered the defendant be committed to the custody of the Attorney General for a competency examination pursuant to 18 U.S.C. §§ 4241 (Filing No. 13).

The psychological evaluation was completed by the staff of the Metropolitan Correctional Center, Chicago, Illinois (MCC-Chicago). An evaluation was performed by Jason V. Dana, Psy. D. (Dr. Dana), Forensic Studies Unit Psychologist at MCC-Chicago. The forensic evaluation report, dated March 30, 2006 (Filing No. 16 - Sealed), was provided to counsel for the government and the defendant. The defendant was returned to the District of Nebraska for hearing.

A competency hearing pursuant to 18 U.S.C. § 4247(d) was held on April 27, 2006. The defendant was present together with his counsel, Richard L. Alexander. The United States was represented by Assistant U.S. Attorney Michael P. Norris.

The parties stipulated that the court receive and consider the report of Dr. Dana (Filing No. 16 - Sealed). Gerlach was afforded an opportunity to testify and to present evidence or witnesses on his behalf. Gerlach declined to present any evidence. No further evidence was presented by either side.

The MCC-Chicago forensic evaluation diagnoses Gerlach as follows: Axis I: Pedophilia, Sexually Attracted to Females, Non-exclusive Type Dysthymic Disorder; Axis II: Antisocial Personality Disorder; Axis III: Refer to Medical Records; Axis IV: Problems

with legal system and primary support group; and Axis V: Current GAF: 60-70. The forensic evaluation was made on March 30, 2006 after observation and interviews with Gerlach at MCC-Chicago from February 15, 2006, through the date of the report. Dr. Dana concluded Gerlach does not suffer from a mental disease or defect which would interfere with Gerlach's ability to understand the proceedings against him or assist counsel in Gerlach's defense. Dr. Dana opined Gerlach was competent to stand trial.

Based upon a review of the forensic report submitted, I find the defendant, Eric V. Gerlach, is mentally competent to stand trial, understands the nature of the proceedings against him, and is able to assist in his own defense.

IT IS ORDERED that, pursuant to 18 U.S.C. § 4241, the defendant, Eric V. Gerlach, is mentally competent to understand the nature and consequences of the proceeding against him and to assist properly in his defense. This case shall now progress in the ordinary course of a criminal proceeding in this district.

DATED this 27th day of April, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge